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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,685	08/31/2001	Henry Fang	SLA 1070	2111

7590 04/07/2005

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EXAMINER

VO, TED T

ART UNIT PAPER NUMBER

2192

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/944,685

Applicant(s)

FANG, HENRY

Examiner

Ted T. Vo

Art Unit

2192

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 18 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-17.

Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See note: \_\_\_\_\_

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_

*Ted T. Vo*  
TED T. VO  
Primary Examiner

## Note:

- Regarding the Applicant traversing the rejection of Claim 1-17 under 35 U.S.C 112, second paragraph, Examiner respectfully respond: See MPEP 2173: Claims Must Particularly Point Out and Distinctly Claim the Invention.

"The primary purpose of this requirement of definiteness of claim language is to ensure that the scope of the claims is clear so the public is informed of the boundaries of what constitutes infringement of the patent. A secondary purpose is to provide a clear measure of what applicants regard as the invention so that it can be determined whether the claimed invention meets all the criteria for patentability and whether the specification meets the criteria of 35 U.S.C. 112, first paragraph with respect to the claimed invention."

As noted, the preamble limits the scope of the claim. In this matter, the boundary of the claims 1-17 as set by the preamble of independent Claims 1, 7, and 12 as the method for defining device user interface controls and the steps in the Claims are not incorporated and not inbound within the scopes as set forth, thus fails to meet 35 U.S.C. 112, second paragraph, according to the primary and secondary purposes of the requirement of definiteness.

In this matter, the scopes are not incorporated with the claims' bodies; such claims are ambiguous and indefinite (MPEP 2173).

- Regarding Applicants' mentioning "In re Larsen", Accordingly, In re Larsen No. 01-1092 (Fed. Cir. May 9, 2001) (unpublished) (The preamble of the Larsen claim recited only a hanger and a loop but the body of the claim positively recited a linear member." It is noted "In re Larsen" that, "The court observed that the totality of all the limitations of the claim and their interaction with each other must be considered to ascertain the inventor's contribution to the art. Upon review of the claim in its entirety, the court concluded that the claim at issue apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112 paragraph 2".

In this matter, each independent Claim 1, 7, or 12, as a whole: "a method for defining" as set by the preamble, does not apprise and does not show the interaction to "accessing" and "retrieving" as recited in the steps. In the case "In re Larsen" and the claiming matter in this application are totally different. The claim will be broadest interpreted, and be given in accordance to the rationales of the rejection under 35 U.S.C 102.

- Regarding the arguments to the rejection under 35 U.S.C 102. All these arguments have been fully considered; particularly, Applicants alleged that Office action cites HAVi Sections and none of the sections teach how the virtual key information is stored or retrieved in response to accessing the JAR file stored in the memory (Remarks page 9, lines 18-22) for the Claim 1, and the similar arguments to Claim 7 (Remarks pages 11-13), and Claim 12 (Remarks pages 13-14). However, the arguments repeated what Applicants argued in the prior final office action dated 01/26/05. Particularly, the Examiner's rationales for such Applicants' arguments and such teaching have been addressed in final office action, section Response to Arguments, in pages 3-6, addressing the accessing and retrieving means of claims 1, 7, and 12.

*Ted T. VO*  
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Primary Examiner.